

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARCUS MILLER,

Plaintiff,
v.

Case No. 07-13126
HON. AVERN COHN

DIANE TRAMSKI, TOM RUEDISUELI,
CITY OF PORT HURON, and
ST. CLAIR COUNTY,

Defendants.
_____ /

ORDER DENYING MOTION FOR RECONSIDERATION

I.

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff Marcus Miller, proceeding pro se and in forma pauperis, filed a complaint against defendants claiming false arrest, false imprisonment, assault, malicious prosecution, abuse of legal process, and unspecified violations of the Fourth, Fifth and Fourteenth Amendments. The matter was referred to a magistrate judge for all pretrial proceedings and before whom defendants filed a motion for summary judgment. As will be explained, the magistrate judge recommended that the motion be granted. The Court agreed and dismissed the case. See Order and Judgment filed March 31, 2009.

Before the Court is a letter from plaintiff in which he says that he did not receive copies of certain documents and asks that the case be re-opened. The Court construes the letter as a motion for reconsideration. For the reasons that follow, the motion is DENIED.

II.

On July 26, 2007, plaintiff filed a complaint against defendants. At the time, plaintiff was incarcerated at the Gus Harrison Correctional Facility in Adrian, Michigan. On January 7, 2008, plaintiff filed a notice of change of address indicating that he had been transferred to Mound Correctional Facility in Detroit, Michigan.

On July 14, 2008, defendants filed a motion for summary judgment. On August 12, 2008, plaintiff filed a response. On March 9, 2009, the magistrate judge filed an Amended Report and Recommendation (MJRR) recommending that defendants' motion be granted. The MJRR was mailed to plaintiff at Mound. However, the MJRR was returned as undeliverable with the notation that plaintiff had been paroled. Indeed, a search of Michigan's Offender Tracking System shows that plaintiff was released on parole on November 26, 2008. Plaintiff, however, never filed a change of address or otherwise notified the Court of his current address. Despite this, the magistrate judge took steps to locate plaintiff and re-mailed a copy of the MJRR to plaintiff on March 17, 2009 at the following address:¹

1219 Minnesota # 110
Port Huron, MI 48060

The MJRR was not returned as undeliverable.

The Court did not receive any objections to the MJRR. Accordingly, on March 31, 2009, the Court adopted the MJRR, granted defendants' motion and dismissed the case. The Court mailed a copy of the order and judgment to plaintiff at the Minnesota address. On April 13, 2009, the order and judgment were returned to the Court as undeliverable with the notation "attempted not known, unable to forward." Again, at no time since

¹It is not clear how the magistrate judge obtained this address for plaintiff.

plaintiff was released on parole in November of 2008 has he submitted submit a change of address.

However, nearly three months later, on July 6, 2009, plaintiff filed the instant motion, contending that “he never received anything concerning his civil suit.” He also states he is currently incarcerated at the St. Clair County Jail but says that his address “has always been 2712 Vaness.” Plaintiff does not provide the city or zip code of the Vaness address. He asks that the case be re-opened.

III.

Plaintiff has an obligation to provide the Court with his current address or risk dismissal. See Fed. R. Civ. P. 41(b); Watsy v. Richards, No. 86-1856, 1987 WL 37151 (6th Cir.1987) (unpublished) (A Rule 41(b) dismissal is an appropriate sanction for a pro se litigant’s failure to provide the court with information regarding his current address). Plaintiff was well aware of this obligation inasmuch as he submitted a change of address form when he was transferred to Mound. Plaintiff, however, failed to inform the Court of his release on parole in 2008 or provide a current address. Under these circumstances, reconsideration of the MJRR or a re-opening of plaintiff’s case is not warranted. Moreover, as thoroughly detailed in the MJRR, all of plaintiff’s claims lack merit.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: September 2, 2009

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record and Marcus Miller #205913, 17601 Mound Road, Detroit, MI 48212 and at 5565 S. M-37, P.O. Box 819, Baldwin, MI 49304-0819 on this date, September 2, 2009, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager, (313) 234-5160